

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:23-cv-00258-MR-WCM

KERRY ADAM SHINE, JR.,)
Plaintiff,)
vs.)
GARRY MCFADDEN, et al.,)
Defendants.)

)

ORDER

THIS MATTER is before the Court on Plaintiff's Complaint [Doc. 1] and the Magistrate Judge's Memorandum and Recommendation [Doc. 12] regarding initial review of the Complaint.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable W. Carleton Metcalf was designated to consider Plaintiff's pro se prisoner Complaint brought pursuant to 42 U.S.C. § 1983 on initial review.

On July 26, 2023, the Magistrate Judge filed a Memorandum and Recommendation [Doc. 12] in this case. In the Memorandum and Recommendation, the Magistrate Judge set forth conclusions of law in support of a recommendation that Plaintiff's Complaint be dismissed without prejudice pursuant to 28 U.S.C. §§ 1915(e) and 1915A for Plaintiff's failure

to state a claim for relief. [See id.] The Plaintiff was advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. [Id. at 6]. The Plaintiff was also advised that he had the opportunity to file an amended complaint within thirty (30) days of the Memorandum and Recommendation and that, if he failed to do so, this action may be dismissed without prejudice and without further notice to the Plaintiff. [Id. at 4-5]. Plaintiff has not filed any objections to the Memorandum and Recommendation or an amended complaint and the deadlines to do both have passed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that Plaintiff's Complaint [Doc. 1] be dismissed without prejudice.¹

IT IS, THEREFORE, ORDERED that the Memorandum and Recommendation [Doc. 12] is **ACCEPTED**, and Plaintiff's Complaint [Doc. 1] is **DISMISSED without prejudice**.

¹ The Court also notes that the Magistrate Judge ordered Plaintiff to notify the Court of his new address, that the deadline to do so has expired, and that Plaintiff has failed to so notify the Court. [See Doc. 11]. This action is also subject to dismissal on those grounds. [See id. at 2].

The Clerk is instructed to terminate this action.

IT IS SO ORDERED.

Signed: September 20, 2023



Martin Reidinger
Chief United States District Judge

